

§ 584.2

25 CFR Ch. III (4–1–13 Edition)

(5) The Commission's proposal to remove a certificate of self-regulation under part 518 of this chapter; and

(6) Late fee notifications and assessments under part 514 of this chapter.

(b) Appeals identified in paragraph (a) of this section brought directly before the Commission on the written record and without a hearing are filed pursuant to part 585 of this subchapter.

§ 584.2 Who may appeal?

(a) Appeals of notices of violation, proposed civil fine assessments, orders of temporary closure, proposals to remove certificates of self-regulation, and late fee notifications and assessments may only be brought by the tribe or the recipient of the action that is the subject of the appeal.

(b) Appeals of the Chair's decisions to void or modify a management contract after approval may only be brought by a party to the management contract.

§ 584.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self-regulation, and a notice of late fees and late fee assessments?

(a) Within 30 days after the Chair serves his or her action or decision, or the Commission serves its intent to remove a certificate of self-regulation, the appellant must file a notice of appeal with the Commission. The notice of appeal must reference the action or decision from which the appeal is taken.

(b) Within 10 days after filing the notice of appeal, the appellant shall file with the Commission:

(1) A list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of their expected testimony, and whether a closed hearing is requested and the reason(s) therefor; and

(2) A brief that states succinctly the relief sought and the ground(s) in support thereof, which may include supporting documentation and evidence in the form of affidavits.

(c) A party that has filed a notice of appeal may waive the right to an oral hearing before a presiding official and

instead elect to have the matter determined by the Commission solely on the basis of written submissions. Appeals based on written submissions are governed by part 585 of this subchapter. If there is more than one party that has filed a notice of appeal, and any party that has filed a notice of appeal elects a hearing before a presiding official, the entire matter will proceed before a presiding official.

(d) The Chair may file a response brief and a list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of their expected testimony, and whether a closed hearing is requested and the reason(s) therefor, within 10 days after service of the appellate brief.

§ 584.4 Are motions permitted?

Yes. Motions to intervene under § 584.5 are permitted. Motions for an extension of time that are filed before the appointment of a presiding official shall be decided by the Commission. All other motions may be scheduled and heard at the discretion of the presiding official.

§ 584.5 How do I file a motion to intervene?

(a) An entity or an individual, whether acting on his or her own behalf or as an agent of another entity not permitted to appeal, may be permitted to participate as a party if the presiding official finds that:

(1) The final decision could directly and adversely affect it or the class it represents;

(2) The individual or entity may contribute materially to the disposition of the proceedings;

(3) The individual's or the entity's interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) A tribe with jurisdiction over the lands on which there is a gaming operation that is the subject of a proceeding under this part may intervene as a matter of right if the tribe is not already a party.

(c) A motion to intervene shall be submitted to the presiding official